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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/018,752

03/13/2002

Yohei Kawabata

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513 7590 01/26/2007  
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EXAMINER

AILES, BENJAMIN A

ART UNIT

PAPER NUMBER

2142

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/018,752

Applicant(s)

KAWABATA ET AL.

Examiner

Benjamin A. Ailes

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to correspondence filed 06 November 2006.
2. Claims 1-9 remain pending.

#### ***Specification***

3. Applicants' amendments to the specification have been acknowledged and entered into the record.

#### ***Claim Objections***

4. Prior objections to claims 1-5 have been withdrawn.

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hemkumar et al. (US 6,356,871 B1), hereinafter referred to as Hemkumar, in view of Olin (US 6,708,220 B1).

9. Regarding claim 1, Hemkumar teaches a storage type data broadcast service system for transmitting a first transport stream constituting at least one content and containing a plurality of packet data having a program clock reference as reference clock information when reproducing the content, at a second transfer rate different from a first transfer rate which is determined by the reference clock information, and extracting the plurality of packet data composing the content from the transmitted transport stream to generate and store a second transport stream, comprising:

a transmitter for transmitting the plurality of packet data composing the content at the second transfer rate (col. 12, lines 17-23), and

Hemkumar teaches a receiver for receiving the transmitted first transport stream (col. 12, lines 24-29) but does not clear teach detecting a transfer rate ratio between the first transfer rate and the second transfer rate to generate the second transport stream based on the detected transfer rate ratio. However, in related art, Olin teaches on this aspect wherein Olin teaches a method for automatically adjusting transfer rates wherein a server monitors and records the transfer of selected data sets and therefore teaches on the detection of preferred transfer rate ratios (col. 6, ll. 28-37. One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to combine the teachings of Hemkumar with the teachings of Olin. One of ordinary skill in the art would have been motivated to make such a combination as taught

by Olin wherein it is advantageous to utilize optimum levels of transfer rates regardless of network/modem speed, server, and other system characteristics (Olin, col. 6, ll. 34-37)

10. Regarding claim 2, Hemkumar and Olin teach the storage-type data broadcast service system wherein the receiver comprises:

- a PCR extractor for extracting the program clock reference contained in the first transport stream (Hemkumar, col. 12, lines 30-32),

- an STC recoverer for recovering, based on the extracted program clock reference, a system time clock which is a processing reference clock for the packet data (Hemkumar, col. 12, ll. 30-44),

- a PCR correction factor calculator for detecting the transfer rate ratio based on two contiguous said extracted program clock references, and deriving, based on the transfer rate ratio, a correction factor for correcting the extracted program clock reference so as to match the second transfer rate (Hemkumar, col. 12, lines 35-38), and

- a PCR corrector for correcting the extracted program clock reference based on the correction factor, wherein the STC recoverer is feedback-controlled to recover a system time clock based on the corrected program clock reference (Hemkumar, col. 12, lines 45-52).

11. Regarding claim 3, Hemkumar and Olin teach the storage-type data broadcast service system wherein the receiver comprises:

- a PCR extractor for extracting the program clock reference contained in the first transport stream (Hemkumar, col. 12, lines 30-31),

an STC recoverer for recovering, based on the extracted program clock reference, a system time clock which is a processing reference clock for the packet data (Hemkumar, col. 12, lines 30-44),

an STC/PCR rate ratio calculator for deriving, based on the extracted program clock reference and the recovered system time clock, a correction factor for correcting the extracted program clock reference so as to match the second transfer rate (Hemkumar, col. 12, lines 35-38), and

and a PCR corrector for correcting the extracted program clock reference based on the correction factor, wherein the STC recoverer is feedback-controlled to recover a system time clock based on the corrected program clock reference (Hemkumar, col. 12, lines 45-52).

12. Regarding claim 4, Hemkumar and Olin teach the storage-type data broadcast service system wherein the receiver comprises:

a PCR extractor for extracting the program clock reference contained in the first transport stream (Hemkumar, col. 12, lines 30-31),

a PCRr specifier for causing the PCR extractor to extract as a standard program clock reference the reference clock contained in the first transport stream and contained in packet data transferred at the first transfer rate (Hemkumar, col. 12, lines 30-44), and

an STC recoverer for recovering, based on the extracted standard program clock reference, a system time clock which is a processing reference clock for the packet data (Hemkumar, col. 12, lines 30-44).

13. Regarding claim 5, Hemkumar and Olin teach the storage-type data broadcast service system wherein the transmitter comprises a transfer rate ratio appended for assigning the transfer

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rate ratio to the first transport stream TS (Hemkumar, col. 12, lines 17-22), and wherein the receiver comprises:

a PCR extractor for extracting the program clock reference contained in the first transport stream (Hemkumar, col. 12, lines 30-32),

an STC recoverer for recovering, based on the extracted program clock reference, a system time clock which is a processing reference clock for the packet data (Hemkumar, col. 12, lines 30-44),

a PCR correction factor generator for extracting the transfer rate ratio from the first transport stream, and deriving, based on the extracted transfer rate ratio, a correction factor for correcting the extracted program clock reference so as to match the second transfer rate (Hemkumar, col. 12, ll. 45-52), and

a PCR corrector for correcting the extracted program clock reference based on the correction factor, wherein the STC recoverer is feedback-controlled to recover a system time clock based on the corrected program clock reference (Hemkumar, col. 12, ll. 45-52).

14. Claims 6-9 contains similar subject matter and are rejected for the same reasons as claims 1-5.

*Conclusion*

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Watanabe (US 6,466,545 B1) teaches an apparatus and method for transmission rate control.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A. Ailes whose telephone number is (571)272-3899.

The examiner can normally be reached on M-F 6:30-4, IFP Work Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571)272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

baa

*Beatriz Prieto*  
**BEATRIZ PRIETO**  
**PRIMARY EXAMINER**